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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

DOUG LITTLE – Chairman
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BOB BURNS
TOM FORESE
ANDY TOBIN

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Arizona Corporation Commission

DOCKETED

JUN 16 2016

DOCKETED BY

DOCKET NO. RR-03639A-16-0160

IN THE MATTER OF THE APPLICATION OF
ARIZONA DEPARTMENT OF TRANSPORTATION
TO UPGRADE EXISTING PUBLIC AT-GRADE
CROSSINGS OF UNION PACIFIC RAILROAD
CROSSING AT COLOSSAL CAVE ROAD USDOT
NOS. 741-303E AND OLD VAIL ROAD USDOT NO.
741-304L, IN THE CITY OF VAIL, PIMA COUNTY,
ARIZONA.

PROCEDURAL ORDER
(Schedules Hearing)

BY THE COMMISSION:

On May 20, 2016, the Arizona Department of Transportation (“ADOT”) filed with the Arizona Corporation Commission (“Commission”) an application for approval for the Union Pacific Railroad (“Railroad”) to upgrade an existing crossing at Colossal Cave Road, USDOT No. 741-303E and Old Vail Road, USDOT No. 741-304L in the City of Vail, (“Vail” or “City”), Pima County, Arizona (“Application”).

Pursuant to A.A.C. R14-3-101, the Commission now issues this Procedural Order to govern the preparation and conduct of this proceeding.

IT IS THEREFORE ORDERED that the request of the Arizona Department of Transportation shall be considered an application for the Railroad to upgrade an existing crossing pursuant to A.R.S. §§ 40-337, *et seq.*

IT IS FURTHER ORDERED that the Railroad shall be considered as the Respondent in this proceeding.

IT IS FURTHER ORDERED that the **hearing** on the application shall be held on **September 12, 2016, at 9:30 a.m.**, or as soon thereafter as is practical, at the Commission’s offices, 1200 West Washington Street, Hearing Room No. 2, Phoenix, Arizona.

IT IS FURTHER ORDERED that within ten business days of receipt of this Procedural Order,

1 the ARIZONA DEPARTMENT OF TRANSPORTATION SHALL PROVIDE THE
 2 RAILROAD AND ANY MUNICIPALITY OR INTERESTED PARTY that may be affected by
 3 the application with a copy of the application and this Procedural Order by certified mail.

4 IT IS FURTHER ORDERED that the Commission's Railroad Safety Section ("Staff") shall
 5 prepare a written **Staff Report and associated exhibits** to be presented at hearing and file copies of
 6 them with Docket Control on or before 4:00 p.m. on **August 29, 2016**.

7 IT IS FURTHER ORDERED that any **objections to the Staff Report and associated**
 8 **exhibits** shall be reduced to writing and filed with Docket Control on or before 4:00 p.m. on
 9 **September 8, 2016**.

10 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-105,
 11 except that all motions to intervene must be filed on or before **August 22, 2016**.

12 IT IS FURTHER ORDERED that the **Arizona Department of Transportation** shall provide
 13 **public notice** of the hearing in this matter, in the following form and style:

14 **IN THE MATTER OF THE APPLICATION OF**
 15 **THE ARIZONA DEPARTMENT OF TRANSPORTATION TO**
 16 **UPGRADE AN EXISTING CROSSING OF THE UNION PACIFIC**
 17 **RAILROAD AT COLOSSAL CAVE ROAD, UDDOT NO. 741-303E**
 18 **AND OLD VAIL ROAD, USDOT NO. 741-304L IN**
 19 **THE CITY OF VAIL, PIMA COUNTY, ARIZONA.**
 20 **(DOCKET NO. RR-03639A-16-0160)**

21 On May 20, 2016, the Arizona Department of Transportation ("ADOT" or
 22 "Applicant") filed with the Arizona Corporation Commission ("Commission") an
 23 application for approval for the Union Pacific Railroad ("Railroad") to upgrade an
 24 existing crossing at Colossal Cave Road, USDOT No. 741-303E and Old Vail Road,
 25 USDOT No. 741-304L, in the City of Vail ("City"), Pima County, Arizona.

26 The application is available for inspection during regular business hours at the
 27 Commission's offices, 1200 West Washington Street, Phoenix, Arizona, and on the
 28 internet via the Commission website (www.azcc.gov) using the e-docket function.

29 The Commission will hold a hearing on this matter commencing on **September 12,**
 30 **2016, at 9:30 a.m.,** at the Commission's offices, 1200 West Washington Street,
 31 Hearing Room No. 2, Phoenix, Arizona. Public comments will be taken on the first
 32 day of the hearing.

33 The law provides for an open public hearing at which, under appropriate circumstances,
 34 interested parties may intervene. Intervention shall be permitted to any person entitled
 35 by law to intervene and having a direct and substantial interest in the matter. Persons
 36 desiring to intervene must file a written motion to intervene with the Commission,
 37 which motion should be sent to Applicant or its counsel and to all parties of record, and
 38 which, at the minimum, shall contain the following:

1. The name, address, and telephone number of the proposed intervenor and of any party upon whom service of documents is to be made if different than the intervenor.
2. A short statement of the proposed intervenor's interest in the proceeding (e.g., a customer of Railroad, a neighboring property owner, a crossing user, etc.).
3. A statement certifying that a copy of the motion to intervene has been mailed to the Applicant or its counsel and to all parties of record in the case.

The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except that all motions to intervene must be filed on or before August 22, 2016. The granting of intervention, among other things, entitles a party to present sworn evidence at hearing and to cross-examine other witnesses. However, failure to intervene will not preclude any customer from appearing at the hearing and making a statement on such customer's own behalf.

If you have any questions about this application, you may contact the Applicant at [insert telephone number]. If you wish to file written comments on the application or want further information on intervention, you may write the Consumer Services Section of the Commission at 1200 West Washington Street, Phoenix, Arizona 85007, call 602-542-4251 or 1-800-222-7000, or appear at the hearing and make comment.

The Commission does not discriminate on the basis of disability in admission to its public meetings. Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, e-mail SABernal@azcc.gov. Requests should be made as early as possible to allow time to arrange the accommodation.

IT IS FURTHER ORDERED that **the Arizona Department of Transportation** shall cause the above notice to be published at least once in a newspaper of general circulation in the city/county where the crossing is located, with **publication to be completed no later than July 15, 2016**.

IT IS FURTHER ORDERED that notice shall be deemed complete upon the mailing/publication of same, notwithstanding the failure of an individual or entity to read or receive the notice.

IT IS FURTHER ORDERED that **THE ARIZONA DEPARTMENT OF TRANSPORTATION SHALL FILE CERTIFICATION OF NOTICE WITH THE COMMISSION'S DOCKET CONTROL AS SOON AS PRACTICABLE** after the mailing/publication of notice ordered herein has been completed.

IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized Communications) applies to this proceeding as the matter is now set for public hearing.

1 IT IS FURTHER ORDERED that all parties must comply with Rules 31, 38, 39, and 42 of
2 the Rules of the Arizona Supreme Court and A.R.S. § 40-243 with respect to practice of law and
3 admission *pro hac vice*.

4 IT IS FURTHER ORDERED that, as permitted under A.A.C. R14-3-107(B), each party to this
5 matter may opt to receive service of all filings in this docket, including all filings by parties and all
6 Procedural Orders and Recommended Opinions and Orders/Recommended Orders issued by the
7 Commission's Hearing Division, via email sent to an email address provided by the party rather than
8 via U.S. Mail. To exercise this option, a party shall:

- 9 1. Ensure that the party has a valid and active email address to which the party has regular
10 and reliable access ("designated email address");
- 11 2. Complete a Consent to Email Service using the form available on the Commission's
12 website (www.azcc.gov) or a substantially similar format;
- 13 3. File the original and 13 copies of the Consent to Email Service with the Commission's
14 Docket Control, also providing service to each party to the service list;
- 15 4. Send an email, containing the party's name and the docket number for this matter, to
16 HearingDivisionServicebyEmail@azcc.gov from the designated email address, to allow
17 the Hearing Division to verify the validity of the designated email address;
- 18 5. Understand and agree that service of a document on the party shall be complete upon
19 the sending of an email containing the document to the designated email address,
20 regardless of whether the party receives or reads the email containing the document;
21 and
- 22 6. Understand and agree that the party will no longer receive service of filings in this
23 matter through First Class U.S. Mail or any other form of hard-copy delivery, unless
24 and until the party withdraws this consent through a filing made in this docket.

25 IT IS FURTHER ORDERED that a party's consent to email service shall not become effective
26 until a Procedural Order is issued approving the use of email service for the party. The Procedural
27 Order shall be issued only after the party has completed steps 1 through 4 above, and the Hearing
28 Division has verified receipt of an email from the party's designated email address.

1 IT IS FURTHER ORDERED that a party's election to receive service of all filings in this matter
2 via email does not change the requirement that all filings with the Commission's Docket Control must
3 be made in hard copy and must include an original and 13 copies.

4 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
5 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
6 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances at
7 all hearings and procedural conferences, as well as all Open Meetings for which the matter is scheduled
8 for discussion, unless counsel has previously been granted permission to withdraw by the
9 Administrative Law Judge or the Commission.

10 IT IS FURTHER ORDERED that the presiding Administrative Law Judge may rescind, alter,
11 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by
12 ruling at hearing.

13 DATED this 16 day of June, 2016.

14 
15
16 BRIAN D. SCHNEIDER
ADMINISTRATIVE LAW JUDGE

17 Copies of the foregoing mailed/delivered
18 this 16 day of June, 2016 to:

19 Chris Watson
20 Assistant Supervisor Railroad Safety Division
21 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

22 Sandi J. Garrick
23 Pima County Utility Liaison
24 Colossal Cave Road Project Manager
201 N. Stone Avenue, 2nd Floor
Tucson, Arizona 85071

25 Alex Popovici, Manager
26 Industry & Public Projects
27 UNION PACIFIC RAILROAD COMPANY
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